

**Appl. No.** : **10/729,027**  
**Filed** : **December 5, 2003**

## **REMARKS**

### **A. Disposition of Claims**

Claims 23-28 are pending in this application. Claim 23 has been amended. The amendment is further discussed below. No new matter has been added. Reexamination and reconsideration of the application, as amended, are respectfully requested.

### **B. Compliance with 35 USC 112/1**

The issue is whether the claims are in compliance with 35 USC 112/1. The Patent Office takes the position that, the specification, while being enabling for a method of making an immunogenic composition, does not reasonably provide enablement for a conjugate vaccine, the latter requiring proof of protection. By this amendment, which is not a “narrowing amendment”, and, thus, does not give rise to prosecution history estoppel, Applicant has amended the claims from a conjugate vaccine to an immunogenic composition. The claims thus conform to USP 6,685,949. Additionally, attached is post-filing date inventor-created art showing that the LOS-based conjugates can be used as vaccine components for further investigation: (1) Gu et al., May 1998, Infect Immun 66: 1891 (type A of 3 types, A, B, and C), (2) Hu et al., Sept 2000, Infect Immun 68: 4980 (clearance of bacteria), (3) Hu et al., March 2001, Infect Immun 69: 1358 (protective monoclonal antibody), (4) Jiao et al., Nov 2002, Infect Immun 70: 5982 (intranasal immunization), (5) Yu, S and Gu, X-X, May 2005, Infect Immun 73: 2790 (type B of 3 types, A, B, and C), and (6) Yu, S and Gu, X-X, June 5-9, 2005, Abstract of the 105th general meeting of the ASM, Atlanta, Georgia, p. 252 (poster: type C of 3 types, A, B, and C). The conclusion is that the claims are in compliance with 35 USC 112/1.

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### CONCLUSION

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

Respectfully submitted,

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